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May 8, 2013

By E-mail

Hon. Katherine B. Forrest
 United States District Judge
 Daniel Patrick Moynihan United States Courthouse
 500 Pearl Street
 New York, NY 1007-1312
ForrestNYSDChambers@nysd.uscourts.gov

USDC SDNY
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Re: SEC v. Fabrice Tourre, 10-CV-3229 (KBF)

Dear Judge Forrest:

We represent non-party ACA Financial Guaranty Corporation (“ACA”) in connection with the litigation referenced above. We write in connection with the request by defendant Fabrice Tourre, detailed in a May 2, 2103 letter to the Court, that ACA be compelled to produce telephone recordings for lines associated with four former ACA employees from February 1, 2006 through December 31, 2007. We appreciate the Court’s May 6, 2013 order directing the parties in this litigation to meet and confer with ACA and the Court’s willingness to allow ACA to be heard on this issue.

This letter details the mutually acceptable agreement that the parties have reached. Specifically, ACA has agreed to make a supplemental production of all non-privileged telephone recordings dated March 1, 2006 through December 31, 2006 from the recorded lines associated with former ACA employees Laura Schwartz, Keith Gorman and Lucas Westreich.

Given the substantial additional volume of recordings involved in this agreement, ACA has agreed to make a good faith effort to complete production of these recordings in submissions to be made on May 10, May 17, May 24, May 31 and June 7, 2013. Counsel to Mr. Tourre has reiterated that Mr. Tourre has no present intention to seek the production of any additional recordings from ACA at this point; the parties agree that any subsequent requests for additional recordings from ACA will be subject to Court approval unless agreed between the parties and ACA.

ACA’s agreement to produce additional recordings shall not constitute a waiver of any of ACA’s December 22, 2010 Responses and Objections to Mr. Tourre’s November

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24, 2010 non-party Subpoena to ACA, and all such Responses and Objections are reserved.

We have previewed this letter with the parties and they have confirmed that it accurately reflects our agreement.

Sincerely,

Katherine B. Forrest

Copy to:

Pamela Rogers Chepiga
Allen & Overy LLP

Christian D.H. Schultz
Securities and Exchange Commission

8980206

ORDERED
Post on Docket
<i>5/8/13</i>
<i>K. B. Forrest</i>
Katherine B. Forrest, USDJ